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20 an air manifold integral with and extending along the top  
21 surface of the seat cushion, wherein the air manifold is interposed  
22 between the outlet of the air flow channel and the air subchannel  
23 to facilitate the distribution of temperature conditioned air  
24 therebetween; and

25 a seat covering substantially encapsulating the porous member  
26 to the seat cushion.

REMARKS

Applicants acknowledge with appreciation the Examiner's allowance of claims 32, and 42-47, and hereby accept allowance of the same. Applicants have amended claim 1 to place it in condition for allowance or, in the alternative, in better condition for appeal and, therefore, respectfully request that this amendment be entered. Applicants have rewritten claims 40 and 41 to place them in condition for allowance. Accordingly, claims 1-8, 11, 14-17, 32 and 40-47 remain pending in this application.

I. Claims Rejected Under Section 103

Claims 1-8, 11, and 14-17 have been rejected under 35 U.S.C. §103 as being unpatentable over Hake in view of either Benzick or Liou. Applicants have amended claim 1 to clarify that the porous member is flexible, has an interface with the outlet of the air flow channel, and that it be adapted to receive the temperature conditioned air therefrom and disperse the same.

Hake discloses a ventilating system for automobile seats comprising: (1) an automobile seat; (2) a duct running through the seat from a vehicle floor to a flexible backing member. Air is passed through duct from the floor to the flexible backing member, to a pad that is supported on the backing. The flexible backing

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member and pad each have rectangular openings therethrough. Air is passed through the rectangular openings and to a covering disposed over the pad.

Contrary to the Examiner's assertion, Hake simply fails to disclose or suggest Applicants' claimed seat construction comprising the fundamental elements of a seat cushion, a porous member covering the seat cushion, and a seat covering disposed over the porous member. If the Examiner asserts that the pad (28) in Hake is Applicants seat cushion, Hake does not disclose or suggest use of a porous member over the pad. Additionally, Hake fails to disclose or even remotely suggest using the ventilating system in conjunction with temperature conditioned air. Hake only discloses use of the system with ambient air taken from beneath the vehicle floor.

Benzick discloses an air conditioning pad for placement on top of a seat cushion, the pad comprising: (1) a lower pad section having a continuous open channel formed in an upper face; (2) an upper pad section having a series of open channels formed in a lower face adapted to contact the upper face of the lower pad section, wherein the upper pad section has a number of air discharge openings that extends through the upper pad section from the lower face to an upper face.

As a first matter, Benzick fails to disclose or suggest a vehicle seat construction and, rather discloses only the construction of a pad that is placed over the vehicle seat. Benzick also fails to disclose or suggest Applicants' vehicle seat apparatus comprising the fundamental elements of: (1) a seat cushion; (2) an air flow channel that extends completely through the seat cushion of the vehicle seat, rather than between a lower and upper pad section; (3) a porous member covering the seat

cushion; and (4) a seat covering disposed over the porous member.

Additionally, Benzick discloses passing only ambient temperature air taken from the environment outside of the vehicle through the pad, and does not even remotely suggest using such pad in conjunction with temperature conditioned air. Finally, as noted by the Examiner, Benzick fails to disclose or suggest Applicants' claimed seat construction comprising a flexible porous member disposed over the top surface of the seat cushion, and a seat cover disposed over a surface of the flexible porous member.

Liou discloses a ventilated foam cushion comprising: (1) a seat having a number of ventilating holes therein, and having a one-way check valve through a side wall of the seat that allows air to enter the seat; and (2) a pad mounted over the seat, the pad having a number of holes extending therethrough. Liou does not disclose or even remotely suggest a vehicle seat construction comprising: (1) a seat cushion having an air flow channel extending therethrough from a top surface to a bottom surface; (2) a porous member covering the seat cushion; and (3) a seat covering disposed over the porous member.

Neither Hake nor Benzick nor Liou disclose or suggest, alone or in combination the fundamental elements of Applicants' claimed vehicle seat construction comprising: (1) a seat cushion having an air flow channel extending therethrough from a top surface to a bottom surface; (2) a porous member covering the seat cushion; and (3) a seat covering disposed over the porous member. Accordingly, the Examiner's combination of these patents does not somehow magically act to disclose or suggest what is missing from each. Therefore, one having ordinary skill in the art would not find Applicants' claimed invention obvious in view of the Examiner's combination.

The Examiner's already strained reliance on this combination to support the assertion of obviousness is further strained by the Examiner's totally conclusionary statement that in view of this combination, "it would have been an obvious modification to one with ordinary skill in the art." Applicants' submit that this statement is pure conjecture on the Examiner's part and does not support a prima facie case of obviousness. It is well know patent law that to make a prima facie showing of obviousness the Examiner must rely on the teachings of a patent or other publication. Accordingly, Applicants request that the Examiner cite a patent or other publication in support of the basis for obviousness or withdraw the rejection.

For the above-described reasons, Applicants submit that the Examiner's rejection based on obviousness is not proper and, therefore, respectfully request that the rejection of claims 1-8, 11, and 14-17 under 35 U.S.C. §103 be reconsidered and withdrawn.

## II. Allowable Claims

Applicants have rewritten claims 40 and 41 to incorporate limitations of the corresponding base claim and any intervening claims and, therefore, submit that these claims are in condition for allowance.

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III. Conclusion

Applicants respectfully request that the rejection of claims 1-8, 11, and 14-17 under 35 U.S.C. §103 be reconsidered and withdrawn, and that these claims, along with rewritten claims 40-41, be allowed.

Respectfully submitted,

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